

## **Issue Summary: HB 981 – Agriculture**

### **Problem Statement:**

Following a ruling by the Circuit Court of the 8th Judicial Circuit, farmers who choose to offer their property for sale are at risk of losing their agricultural classification and having to pay higher property taxes even though the land continues to be used primarily for a bona fide agricultural purpose.

### **Background:**

The bill covered many issues; however, this background section focuses on those issues addressed in the Governor's veto letter. With limited exceptions, the Florida Constitution (s. 4, Art. VII) requires the government to obtain a just valuation of property subject to ad valorem taxation (property taxes). Florida courts have consistently defined just valuation as fair market value. An exception is provided for agricultural land, which the constitution allows to be "classified by general law and assessed solely on the basis of character or use."

Laws enacted to implement this constitutional exception require property appraisers to classify for assessment purposes all lands within the county as either agricultural or nonagricultural. Only lands used primarily for bona fide agricultural purposes may be classified agricultural. Sale of land for a purchase price that is three or more times the agricultural assessment placed on the land creates a presumption that the land is not used primarily for bona fide agricultural purposes. However, upon a showing of special circumstances by the landowner demonstrating that the land is to be continued in bona fide agriculture, this presumption can be rebutted.

In January 2008, a Final Circuit Court Judgment denied an agricultural classification for certain properties that had been transferred to a wholly-owned real estate company at an assigned value greater than three times the appraised value. The court held that the land was being used before and after the purchase for a bona fide agricultural purpose, a timber operation. Finding the primary purpose of the real estate company was the sale and marketing of land that has been identified as having a higher and better use, the court ruled that the bona fide agricultural practices were secondary to the primary purpose of marketing the land. In November 2009, the First District Court of Appeal affirmed the Circuit Court's decision.

The bill provided that the act of offering land for sale does not, in and of itself, constitute a primary use of the land and cannot be the basis for denying classification as agricultural land if the land continues to be used primarily for bona fide agricultural purposes. The classification is to be remedial and clarifying and applied retroactively to all parcels for which a final court order has not been issued. The bill also provided that structures or improvements used in horticultural production for frost or freeze protection, as designated by the Department of Agriculture and Consumer Services' interim measures or best management practices, shall be assessed by the methodology required for the assessment of land used for agricultural purposes.

### **Governor's Veto:**

The Governor stated in his veto letter that he had concerns about making it easier for developers to take advantage of a policy intended to protect Florida farmers from financial pressures to sell their land and that the bill could subsidize private real estate speculation at the expense of the taxpayer, rather than benefitting farmers as the greenbelt provisions are intended.

**Effect of the Override:**

The bill was not intended to allow developers to take advantage of the agricultural classification. Rather, the bill only pertains to the offering of property for sale by the current owner and not to an actual sale. This bill would protect farmers and other landowners who choose to offer their property for sale from losing their agricultural classification and having to pay higher property taxes even though the land continues to be used primarily for a bona fide agricultural purpose.

If this veto is not overridden, beginning January 1, 2011, property appraisers may apply the court's decision in such a manner as to deny agricultural classifications for agricultural lands being offered for sale but continuing to be used for bona fide agricultural purposes. This result would increase financial hardships for farmers, increase pressures to sell their agricultural lands, and could actually lead to the conversion of such lands to nonagricultural purposes.